

Docket No.: 287953US8PCT/phm

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Ralf BOEHNKE, et al.

SERIAL NUMBER: 10/583,098

GROUP: 2466

FILED: June 16, 2006

EXAMINER: ROBERTS, BRIAN S.

FOR: HETEROGENEOUS WIRELESS DATA TRANSMISSION NETWORK

PETITION UNDER 37 C.F.R. §1.181(a)(3)

MAIL STOP ISSUE FEE
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

SIR:

Applicants herein petition the Commissioner to invoke his supervisory authority to compel the Examiner to consider Document (AZ) cited in the Information Disclosure Statement filed on September 29, 2009.

The Information Disclosure Statement, in conformity with the requirements of 37 C.F.R. §1.97-1.98, was originally filed on September 29, 2009, together with copies of Documents (AT)-(AY) and a copy of Document (AZ). Documents (AT)-(AY) have been considered. The above-referenced application has now been allowed. Document (AZ) listed on the Information Disclosure Statement has not been considered by the Examiner for the reason that the Document cited on the Information Disclosure Statement “fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP §609 because there is not a date listed” as noted on page 2 of the Office Action dated November 12, 2009.

37 C.F.R. §1.181(a)(3) allows petition to invoke the supervisory authority of the Commissioner in appropriate circumstances. The Information Disclosure Statement is in compliance with 37 C.F.R. §1.97-1.98 since it was timely submitted comprising a statement of relevancy noting that Document (AZ), directed to “Millennial Net” with a website address

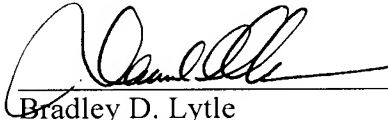
Application No. 10/583,098
Petition Under 37 C.F.R. §1.181(a)(3)

of <http://www.millennial.net/>, was cited in the specification. A copy of page 1 of the Internet Website location of "Millennial Net" was provided. Additionally, a date on page 1 of the document of 9/9/2009 can be found at the lower right hand corner of the page. Even though the Internet Website address of "Millennial Net" is considered to be publicly available as of the date of its public posting (See MPEP 2128 for handling of "Printed Publications" and date of availability of on-line database postings.), the date on page 1 of 9/9/2009 is the presently available date. A Copy of page 1 of Document (AZ) can be found on PAIR as an NPL document.

Accordingly, it is respectfully submitted that this Petition Under 37 C.F.R. §1.181 be granted and that the Examiner consider Document (AZ) with the date cited on page 1 of the document cited in the Information Disclosure Statement filed September 29, 2009.

Respectfully Submitted,

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